



Minutes of MAYOR AND COUNCIL Meeting

Approved by Mayor and Council
on September 5, 2012.

Date of Meeting: November 22, 2011

The Mayor and Council of the City of Tucson met in regular session in the Mayor and Council Chambers in City Hall, 255 West Alameda Street, Tucson, Arizona, at 5:45 p.m., on Tuesday, November 22, 2011, all members having been notified of the time and place thereof.

1. ROLL CALL

The meeting was called to order by Mayor Walkup and upon roll call, those present and absent were:

Present:

Regina Romero	Council Member Ward 1
Paul Cunningham	Council Member Ward 2
Karin Uhlich	Vice Mayor, Council Member Ward 3
Shirley C. Scott	Council Member Ward 4
Richard G. Fimbres	Council Member Ward 5
Steve Kozachik	Council Member Ward 6
Robert E. Walkup	Mayor

Absent/Excused:

None

Staff Members Present:

Richard Miranda	City Manager
Michael Rankin	City Attorney
Roger W. Randolph	City Clerk

2. INVOCATION AND PLEDGE OF ALLEGIANCE

The invocation was given by Reverend Otis Brown, Siloam Freewill Church, after which the Pledge of Allegiance was presented by the entire assembly.
Presentations:

- a. Mayor Walkup introduced the Tucson Girls Chorus, who sang “Happy Trails.”
- b. Mayor Walkup, assisted by Vice Mayor Uhlich, proclaimed November 25 through December 26, 2011, as “Buy Local Month.” The proclamation was accepted by Lisette DeMars and Deanna Chevas.
- c. Mayor Walkup, assisted by Council Member Fimbres, presented Certificates of Appreciation to the Knights of Columbus, Council 1200.

3. MAYOR AND COUNCIL REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 446, dated November 22, 2011, was received into and made part of the record. He also announced this was the time scheduled to allow members of the Mayor and Council to report on current events and asked if there were any reports.

Current event reports were provided by Council Members Romero, Cunningham, Scott, Fimbres, Kozachik, Vice Mayor Uhlich, and Mayor Walkup. A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

Mayor Walkup called on Bill Katzel who made a special presentation to Mayor Walkup and his wife Beth.

4. CITY MANAGER’S REPORT: SUMMARY OF CURRENT EVENTS

Mayor Walkup announced City Manager’s communication number 447, dated November 22, 2011, was received into and made part of the record. He also announced this was the time scheduled to allow the City Manager to report on current events, and asked for that report.

Current event report was given by Richard Miranda, City Manager. A recording of this item is available from the City Clerk’s Office for ten years from the date of this meeting.

5. LIQUOR LICENSE APPLICATIONS

Mayor Walkup announced City Manager’s communication number 444, dated November 22, 2011, was received into and made part of the record. He asked the City Clerk to read the Liquor License Agenda.

b. Liquor License Application(s)

New License(s)

1. Salud Oyster Bar & Grill, Ward 1
1825 W. Valencia Rd.
Applicant: Jesus Francisco Bonillas Jr.
Series 12, City 80-11
Action must be taken by: November 28, 2011

Tucson Police Department has indicated the applicant is in compliance with city requirements.

Revenue Division-Investigations and Planning & Development Services Department have indicated the applicant is not in compliance with city requirements.

(Continued from the Mayor and Council Meeting of November 15, 2011)

This item was considered separately.

2. El Parador Tucson, Ward 6
2744 E. Broadway Blvd.
Applicant: Daniel Craig Jacob
Series 12, City 79-11
Action must be taken by: November 25, 2011

Tucson Police Department and Planning & Development Services Department have indicated the applicant is in compliance with city requirements.

Revenue Division-Investigations and City Clerk's office have indicated the applicant is not in compliance with city requirements.

This item was considered separately.

3. Monterey Court Cafe, Ward 3
505 W. Miracle Mile
Applicant: Gregory Jon Haver
Series 12, City 83-11
Action must be taken by: December 1, 2011

Tucson Police Department and Revenue Division-Investigations have indicated the applicant is in compliance with city requirements.

Planning & Development Services Department has indicated the applicant is not in compliance with city requirements.

4. Tucson Airport Hotel, Ward 5
6801 S. Tucson Blvd.
Applicant: Kevin Arnold Kramber
Series 11, City 84-11
Action must be taken by: December 1, 2011

Staff has indicated the applicant is in compliance with city requirements.

5. ¡Fiesta! Party Supply & Beverage Outlet, Ward 5
5125 S. 12th Ave.
Applicant: Khaled Muhammad Duqmaq
Series 10, City 85-11
Action must be taken by: December 3, 2011

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument Opposed Filed

This item was considered separately.

6. Koi Sushi Restaurant, Ward 3
715 E. Wetmore Rd.
Applicant: Kevin Sung Park
Series 12, City 88-11
Action must be taken by: December 11, 2011

Staff has indicated the applicant is in compliance with city requirements.

7. Quick Break, Ward 5
3095 E. Irvington Rd.
Applicant: Kimheng Khin Hu
Series 10, City 89-11
Action must be taken by: December 11, 2011

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a new license application, "In all proceedings before the governing body of a city...the applicant bears the burden of showing that the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license". (A.R.S. Section 4-201)

Location Transfer

8. Circle K Store #3439, Ward 6
4701 E. 22nd St.
Applicant: Kim Kenneth Kwiatkowski
Series 9, City 86-11
Action must be taken by: December 2, 2011

Staff has indicated the applicant is in compliance with city requirements.

NOTE: State law provides that for a location transfer, Mayor and Council may consider whether the public convenience requires and that the best interest of the community will be substantially served by the issuance of a license at that location. (A.R.S. Section 4-203; Rule R19-1-102)

c. Special Event(s)

1. Salpointe Catholic Education Foundation, Ward 3
1545 E. Copper St.
Applicant: Merri C. Siler
City T111-11
Date of Event: February 11, 2012
(Fundraising)

Staff has indicated the applicant is in compliance with city requirements.

2. Tucson Metropolitan Community Chorus dba Desert Voices, Ward 6
6245 E. Bellevue St.
Applicant: Jay C. Moman
City T113-11
Date of Event: December 10, 2011
(Fundraising)

Staff has indicated the applicant is in compliance with city requirements.

3. The Rockin' Pinups, Ward 3
1102 W. Grant Rd.
Applicant: Meagan Lea Ross
City T114-11
Date of Event: December 17, 2011
(Toy Drive for Casa de Los Ninos)

Staff has indicated the applicant is in compliance with city requirements.

4. Congregation Anshei Israel, Ward 6
5550 E. 5th St.
Applicant: Michael Bruce Landy
City T116-11
Date of Event: December 3, 2011
(Holiday Party)

Staff has indicated the applicant is in compliance with city requirements.

d. Agent Change/Acquisition of Control

1. Fox Theater, Ward 1
17 W. Congress St.
Applicant: Fletcher Jay McCusker
Series 7, City AC18-11
Action must be taken by: November 27, 2011

Staff has indicated the applicant is in compliance with city requirements.

2. American Legion #7, Ward 1
330 W. Franklin St.
Applicant: Russell Leon Dillow
Series 14, City AC19-11
Action must be taken by: December 4, 2011

Staff has indicated the applicant is in compliance with city requirements.

3. Magpies Gourmet Pizza, Ward 6
605 N. 4th Ave. #603, #605, & #607
Applicant: Diana Trejo
Series 7, City AC20-11
Action must be taken by: December 5, 2011

Staff has indicated the applicant is in compliance with city requirements.

NOTE: The local governing body of the city, town or county may protest the acquisition of control within sixty days based on the capability, reliability and qualification of the person acquiring control. (A.R.S. Section 4-203.F)

It was moved by Council Member Fimbres, duly seconded and carried by a voice vote of 7 to 0, to forward liquor license applications 5b3 through 5b4, 5b6 through 5b8, 5c1 through 5c4, and 5d1 through 5d3 to the Arizona State Liquor Board with a recommendation for approval.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

1. Salud Oyster Bar & Grill, Ward 1
1825 W. Valencia Rd.
Applicant: Jesus Francisco Bonillas Jr.
Series 12, City 80-11
Action must be taken by: November 28, 2011

Tucson Police Department has indicated the applicant is in compliance with city requirements.

Revenue Division-Investigations and Planning & Development Services Department have indicated the applicant is not in compliance with city requirements.

(Continued from the Mayor and Council Meeting of November 15, 2011)

Roger W. Randolph, City Clerk, announced the first item to be considered separately was Item 5b1, Salud Oyster Bar & Grill, located in Ward 1 at the request of Council Member Romero.

Council Member Romero called on the applicant, to comment on why his establishment did not meet City requirements and on his plans to move forward.

Jesus Francisco Bonillas, Jr., the Applicant, explained that the site plan map was mislabeled and would be corrected. He also stated that payment arrangements had been made with the Revenue Department to pay an overdue balance by December 22, 2011.

Ernie Duarte, Planning and Development Services Department Director, said the information submitted with the liquor license application did not match the plans on file with his office, and had to be reconciled.

Council Member Romero asked the City Attorney if it was proper to move the application forward with a recommendation for approval and if staff was comfortable with following up with the business to ensure compliance.

Michael Rankin, City Attorney, explained that the application could be moved forward, recognizing that the applicant must come into compliance with City requirements.

Mr. Duarte responded he was, as the applicant showed willingness to reconcile the plans.

Council Member Romero voiced her expectations to the applicant regarding his establishment.

Kelly Gottschalk, Assistant City Manager and Chief Financial Officer, indicated she had not verified the arrangements the applicant said he made with the City's Revenue Department, and wanted to ensure the motion for recommendation of approval was contingent upon the applicant being in compliance with City requirements

Mr. Rankin advised the motion be contingent on satisfaction of City requirements raised by Mr. Duarte and Ms. Gottschalk.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b1 to the Arizona State Liquor Board with a recommendation for approval, contingent upon satisfaction of City requirements.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

2. El Parador Tucson, Ward 6
2744 E. Broadway Blvd.
Applicant: Daniel Craig Jacob
Series 12, City 79-11
Action must be taken by: November 25, 2011

Tucson Police Department and Planning & Development Services Department have indicated the applicant is in compliance with city requirements.

Revenue Division-Investigations and City Clerk's office have indicated the applicant is not in compliance with city requirements.

Roger W. Randolph, City Clerk, announced the next item to be considered separately was Item 5b2, El Parador Tucson, located in Ward 6 at the request of Council Member Kozachik.

Council Member Kozachik asked if the applicant was present. After no response, he asked about the applicant's non-compliance with Revenue for unpaid taxes.

Kelly Gottschalk, Assistant City Manager and Chief Financial Officer, indicated the issue had not been rectified by the applicant.

Mr. Randolph also added the applicant had not paid the applicable processing fees as well.

Michael Rankin, City Attorney, advised that the time frame for sending a recommendation for this application to the State expired on November 25, 2011.

It was moved by Council Member Kozachik, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b2 to the Arizona State Liquor Board with a recommendation for denial.

5. LIQUOR LICENSE APPLICATIONS

b. Liquor License Application(s)

New License(s)

5. ¡Fiesta! Party Supply & Beverage Outlet, Ward 5
5125 S. 12th Ave.
Applicant: Khaled Muhammad Duqmaq
Series 10, City 85-11
Action must be taken by: December 3, 2011

Staff has indicated the applicant is in compliance with city requirements.

Public Opinion: Written Argument Opposed Filed

Roger W. Randolph, City Clerk, announced the final item to be considered separately was Item 5b5, ¡Fiesta! Party Supply & Beverage Outlet, located in Ward 5 at the request of Council Member Fimbres.

Council Member Fimbres asked if the owner/applicant was present.

Thomas Aguilera, representing the applicant, explained that the 7,000 square foot building on Twelfth Avenue would be rehabilitated by the applicant into a full-service party supply outlet store, not a small series 10 beer store. He also assisted the applicant on the name change of the business to make it more identifiable. Mr. Aguilera said that, pursuant to Council Member Fimbres' recommendation, they reached out to the Southside Neighborhood Association Presidential Partnership (SNAPP) and to the Sunnyside Neighborhood Association, but had no response.

Khaled Duqmaq, Applicant, said he was not trying to open a convenience or liquor store, but a one-stop party supply store, including jumping castles, tables and other supplies. The store would employ at least ten people to start, and would be a great opportunity for the neighborhood and the area.

Yolanda Herrera, Sunnyside Neighborhood Association (SNA) Second Vice President, stated the neighborhood was no longer the safe community it had once been. She also read the SNA Mission and Vision Statement and said the SNA was a high-stress community, including alcohol abuse, drugs, and high traffic areas and the Pima County-Tucson Commission on Addiction Prevention and Treatment recommended a reduction of liquor density in high-stress communities. She added that community needs were not better served by adding another liquor establishment, and asked for a denial.

Maureen Fisher, SNAPP Vice President, said that at their meeting held on November 17, 2011, they voted in support of the Sunnyside and Rose Neighborhood Associations in their request for denial of the application.

It was moved by Council Member Fimbres, duly seconded, and carried by a voice vote of 7 to 0, to forward liquor license application 5b5 to the Arizona State Liquor Board with a recommendation for denial.

6. CALL TO THE AUDIENCE

Mayor Walkup announced this was the time any member of the public was allowed to address the Mayor and Council on any issue except for items scheduled for a public hearing. Speakers were limited to three-minute presentations, and call to the audience was limited to one hour.

Comments were made by:

Richard DeBernardis	Jake Elkins	Guy Josserand III
Robert Reus	Ken Johnson	Amanda Trueblood
Theresa Higuera	Shannon Cain	William Lolos
Jessica Shuman	Tracy Toland	Keith Van Heyningen
Thoma Grant	Kristina Ruiz	Jack Ward
Ruth Beeker	Jack Fitzgerald	Marianne Dissard
Michael Cole	Michael Robins	

A recording of this item is available from the City Clerk's Office for ten years from the date of this meeting.

7. CONSENT AGENDA – ITEMS A THROUGH F

Mayor Walkup announced the reports and recommendations from the City Manager on the Consent Agenda were received into and made part of the record. He asked the City Clerk to read the Consent Agenda.

- a. PARKS AND RECREATION: APPROVAL OF A USE AGREEMENT WITH THE CHURCH OF ST. MICHAEL AND ALL ANGELS FOR THE USE OF HAROLD BELL WRIGHT PARK
 - 1. Report from City Manager NOV22-11-449 WARD 2
 - 2. Resolution No. 21823 relating to Parks and Recreation; authorizing and approving the Use Agreement between the City of Tucson and the Church of St. Michael and All Angels; and declaring an emergency.

- b. INTERGOVERNMENTAL AGREEMENT AMENDMENT: WITH THE METROPOLITAN DOMESTIC WATER IMPROVEMENT DISTRICT FOR EFFLUENT AND RECLAIMED WATER
 - 1. Report from City Manager NOV22-11-451 OUTSIDE CITY
 - 2. Resolution No. 21824 relating to Water; authorizing and approving the execution of Addendum 1 to those City of Tucson-Metropolitan Domestic Water Improvement District Intergovernmental Agreements relating to Effluent and to Reclaimed Water; and declaring an emergency.

- c. GRANT AGREEMENT: WITH THE REGIONAL TRANSPORTATION AUTHORITY FOR FEDERAL TRANSIT ADMINISTRATION GRANT AZ-37-X016
 - 1. Report from City Manager NOV22-11-452 OUTSIDE CITY
 - 2. Resolution No. 21825 relating to Transportation; authorizing and approving the Grant Agreement between the City of Tucson and the Regional Transportation Authority of Pima County (RTA) for Federal Transit Administration (FTA) Grant No. AZ-37-X016 allowing the RTA to spend FTA funding to operate Sun Shuttle Rita Ranch Circulator; and declaring an emergency.

- d. INTERGOVERNMENTAL AGREEMENT: WITH THE PASCUA YAQUI TRIBE FOR TRANSFER OF THE PASCUA YAQUI NEIGHBORHOOD CENTER TO THE PASCUA YAQUI TRIBE
 - 1. Report from City Manager NOV22-11-457 WARD 3
 - 2. Resolution No. 21827 relating to Parks and Recreation; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and the Pascua Yaqui Tribe regarding the transfer of the Pascua Neighborhood Center to the Pascua Yaqui Tribe; and declaring an emergency.

(This item was considered separately at the request of Vice Mayor Uhlich)

e. AGREEMENT: WITH FRIENDS OF TUCSON'S BIRTHPLACE AND PIMA COUNTY FOR DEVELOPMENT, OPERATION AND MAINTENANCE OF MISSION GARDENS

1. Report from City Manager NOV22-11-458 WARD 1

(Item continued to the meeting of December 5, 2011, at the request of staff.)

f. FINAL PLAT: (S11-042) WAREHOUSE BREWERY CONDOMINIUMS, UNITS 1, 2, AND 3, LIMITED COMMON ELEMENTS "A" AND "B" AND COMMON ELEMENT "A"

1. Report from City Manager NOV22-11-459 WARD 6
2. Staff recommends that the Mayor and Council approve the final plat as presented. The applicant is advised that building/occupancy permits are subject to the availability of water/sewer capacity at the time of actual application.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll call vote of 7 to 0, that Consent Agenda Items a – f, with the exception of Item d, which was considered separately, and Item e, which was continued to the meeting of December 5, 2011, be passed and adopted and the proper action taken.

7. CONSENT AGENDA – ITEM D

d. INTERGOVERNMENTAL AGREEMENT: WITH THE PASCUA YAQUI TRIBE FOR TRANSFER OF THE PASCUA YAQUI NEIGHBORHOOD CENTER TO THE PASCUA YAQUI TRIBE

1. Report from City Manager NOV22-11-457 WARD 3
2. Resolution No. 21827 relating to Parks and Recreation; approving and authorizing execution of an Intergovernmental Agreement between the City of Tucson and the Pascua Yaqui Tribe regarding the transfer of the Pascua Neighborhood Center to the Pascua Yaqui Tribe; and declaring an emergency.

Roger W. Randolph, City Clerk, announced the item to be considered separately was Consent Agenda Item d at the request of Vice Mayor Uhlich.

Vice Mayor Uhlich introduced and thanked members from the Pascua Yaqui Tribal Council. She said the Intergovernmental Agreement transferred responsibility and ownership of the Pascua Yaqui Neighborhood Center to the Tribe which benefited the residents of Old Pascua and the Tribal Members and the residents of the City. She asked the Tribal Members if they had any comments to make.

Both, Arcadio Gastelum and Emilio Caiz, Pascua Yaqui Tribal Council, spoke and gave thanks to the Ward 3 Council Office for their support.

It was moved by Council Member Uhlich, duly seconded, to pass and adopt Consent Agenda Item e.

Council Member Romero commented on the historic aspect of the agreement.

Before roll call, Mr. Randolph clarified that the motion was to pass and adopt Consent Agenda Item d.

Consent Agenda Item d was passed and adopted by a roll call vote of 7 to 0.

8. PUBLIC HEARING: PROPOSED TEXT AMENDMENT TO THE 2010 *LAND USE CODE* AND AMENDING ORDINANCES 10813 AND 10835 BY EXTENDING THE SUNSET DATE TO JANUARY 31, 2015

Mayor Walkup announced City Manager's communication number 453, dated November 22, 2011, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for an amendment to the *Land Use Code* and amending Ordinances 10813 and 10835, by extending the sunset date to January 31, 2015. He said the public hearing was scheduled to last for no more than one hour and speakers were limited to five minute presentations.

Ernie Duarte, Planning and Development Services Director, gave a brief presentation on the proposed text amendment to the 2010 *Land Use Code*. He said the Planning Commission recommended the approval of extending the sunset date of Ordinances 10813 and 10835 to January 31, 2015.

The following spoke in support of the proposed text amendment: Gay Jarvis, President of Building Owners and Management Association (BOMA) of Greater Tucson; Michael Varney, Tucson Metropolitan Chamber of Commerce; Rich Rodgers; Tom Warne; Jason Wong; Lisa Hoskin, Metropolitan Pima Alliance; Bill Yarnell; and Chuck Martin.

The following spoke in opposition to the proposed text amendment: Noah Sensibar; Carolyn Niethammer, West University Neighborhood Association (WUNA); Ford Burkhardt; Chris Gans, WUNA; John O'Dowd; Michael Morse, WUNA; Matt Williams, WUNA; and Diana Lett, Feldman's Neighborhood Association.

Ruth Beeker also spoke and requested that the three-year sunset extension be used to improve the ordinance.

It was moved by Council Member Scott, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10943 by number and title only.

Ordinance No. 10943 relating to Planning and Zoning; amending certain portions of the Land Use Code, Chapter 23, Article II, Zones, Division 8, Overlay Zones, Section 2.8.12, Downtown Area Infill Incentive District Zone (IID), to extend the effective date of the District until January 31, 2015; amending Ordinance No. 10813; and Ordinance No. 10835 extending the effective dates of each ordinance until January 31, 2015; and declaring an emergency.

It was moved by Council Member Fimbres, duly seconded, to pass and adopt Ordinance 10943.

Mayor Walkup asked if there was any discussion.

Council Member Kozachik asked staff if they planned to continue gathering data in order to assess the merits of the ordinance, as Ms. Beeker mentioned during the public hearing.

Mr. Duarte replied in the affirmative to the extent that data can be gathered and the applicant could provide it, the department would continue to capture it. In some cases, the applicant may not have access to the information.

Council Member Kozachik asked if the Infill Incentive District (IID) or WUNA could be excluded from the motion.

Michael Rankin, City Attorney, advised that it was not a good idea if the Council was not prepared to extend the sunset date for the IID. If the Council wanted to address it separately, he could read into the record, the appropriate amendment to the ordinance, if that was the direction of the Council. Otherwise, this item may have to be brought back the following week with appropriate language, depending on what the Council wanted to accomplish. He stated that boundaries of an overlay district could not be changed that evening, as the process for amending the *Code* had to be followed.

Council Member Kozachik asked if there were projects in the pipeline that could be adversely affected if the Council did not extend the sunset dates.

Mr. Duarte replied there were a handful of projects that had selected their locations as a result of the IID process and were looking forward to utilizing those benefits. One project that was scheduled was east of the Rialto Theatre – a student housing project. He said another project was due south of this at the corner of 5th Avenue and Broadway Boulevard, which was another pending student housing project. Both projects would benefit as a result of the IID process.

Council Member Kozachik asked if the sunset dates were extended, what assurances WUNA had that their concerns would be addressed.

Mr. Duarte said, as far as the transition area, he expected the IID would be looked at carefully by the planning consultant that would be brought on board as part of the Modern Streetcar planning process. He said Ms. Beeker's issues are the same as what the City wants the Planning Consultant to take a look at.

Vice Mayor Uhlich asked if it was considered a legal action of the Mayor and Council to say they were extending the sunset date in the ordinance with the exception of the WUNA.

Mr. Rankin said it was not legal because it would change the boundaries of the Overlay District established through the zoning process.

Vice Mayor Uhlich asked if their options were either to extend or not extend the sunset dates for the entire boundaries as presented.

Mr. Rankin replied that was correct; but the Council could decide the time frame of the extension. He also added that the Mayor and Council could change the boundaries, just not that evening, as it required the statutory process.

Vice Mayor Uhlich asked if it was an option for them to extend the sunset for the first two items in the *LUC* and the IID for the core boundaries and then direct staff to return in ninety days to help solve some of the other problems. She also asked which boundaries would be excluded from the overlay.

Mr. Rankin asked for clarification of the question. He asked Vice Mayor Uhlich if she was asking to extend the sunset that evening with respect to the Downtown Core, which she said she was and withhold action on the bigger picture that included WUNA.

Mr. Rankin said, if that was the will of the Council, then he would ask that they carve out the IID extension altogether and bring it back prior to the expiration date. He stated he did not know if it was possible to separate out the issues as it required a fair amount of text amendments since it was in the *Land Use Code* itself and he could not read those amendments into the record that evening.

Vice Mayor Uhlich said she wanted to hear other ideas from the Council.

Council Member Romero commented on her thoughts regarding the Certificate of Occupancy (CofO), the IID and responsible infill, especially in historic neighborhoods. She asked what was available to neighborhoods in the IID process to give input. She also asked why staff was asking for a three-year extension to the IID and how the public's input was included in changes to the IID.

Mr. Duarte replied that when development applications were submitted, staff reviewed them for specific issues or items the developer was seeking relief from, neighborhood notices were sent out and a public comment period was given to address concerns. He said staff took the comment period seriously and in the case of the District,

they took into consideration tall buildings in close proximity to existing single story, single family dwelling units.

Mr. Duarte said three years was ample time to assess the effectiveness of the text amendments and to roll them into the *Unified Development Code* when it came out for formal adoption. He added it was a matter of consistency for all of the items to see how things did or did not work.

Council Member Romero agreed on moving forward with the first two text amendments, but asked what, if any, changes were included in the sunset extension for the IID.

Mr. Duarte replied that the IID was the same as approved in 2010 with no changes. He added that as the City moved forward with the Modern Streetcar planning process, the consultant would give careful consideration to the transition and buffering as the first step in the process.

Council Member Romero asked how the residents that lived in WUNA and along the IID could be assured that there would be no irresponsible development from the time the extension was approved to when the Street Car overly was put together.

Mr. Duarte said the input and issues raised would be taken very seriously and given priority attention.

Council Member Scott stated staff's recommendation was to do a re-evaluation of the IID, including the development transition requirements and the consideration of an amendment as part of the Modern Streetcar planning process. She asked if the extension of time meant public input would be minimal or less important.

Mr. Rankin replied that if the Council chose to extend the sunset, it did not preclude the Mayor and Council, as the governing body, from making amendments to the IID, but the issue of amendments to the IID was not currently before the Mayor and Council that evening.

Council Member Scott asked if there was any recourse for residents living near a retail spot where no site improvements were made nor improvements required with the CofO.

Mr. Duarte said that issue had been raised during the Planning Commission (PC) process, and there was concern that the current CofO ordinance did not do enough to promote the beautification of the community by allowing people to move in without making site improvements.

Council Member Scott stated she was comfortable with allowing more time to be given to the ordinances because there was a caveat in place for public input.

Council Member Cunningham asked how much time was needed to change the boundaries.

Mr. Duarte said it was a re-establishment of the overlay process, which would require public notice to property owners within the district boundaries, as well as, to property owners within three hundred feet surrounding said boundaries, and to neighborhood associations within one mile. It required a study session and public hearing in front of the PC, and then a recommendation by the Commission to the Mayor and Council.

Council Member Cunningham stated, basically, it was very difficult to pull off by January 31, 2012, and asked how much time past that date was needed.

Mr. Rankin estimated that it was about a six-month process.

Council Member Cunningham asked if it was possible to extend the sunset dates for the first two to three years, with the exception of the IID, which would be extended until June 1, 2012, to give staff time to tweak it.

Mr. Rankin advised that the Mayor and Council could approve the sunset extensions as proposed in the ordinance and designate a shortened extension with respect to the IID, with additional direction to staff to begin the process regarding boundary or other changes. He added that the process would be facilitated if the Mayor and Council could give precise direction on the type of changes, as it involved a considerable commitment of resources from the Planning and Development Services Department (P&DSD) and throughout the entire process.

A substitute motion was made by Council Member Cunningham, duly seconded, to extend the CofO and IID sunset dates for three years, with the exception of the Infill Incentive District, which would be extended until July 1, 2012.

Council Member Fimbres asked how the Rialto Theatre and student housing project utilized the downtown area IID.

Mr. Duarte said the Rialto Theatre was a gross floor expansion which added a patio to the east end, essentially an extension of their premises and sought relief from parking and landscaping requirements. He said the District project sought relief on set-backs, landscaping, loading zone, and height provisions.

Council Member Fimbres asked how P&DSD would work on the IID in conjunction with the neighborhoods when the Modern Streetcar design process began.

Mr. Duarte replied they would continue to seek consultant services to help scrutinize all of the planning that had been done.

Council Member Fimbres asked if the three-year extension was simply to give time to make modifications and amendments.

Mr. Duarte replied yes to the greater Infill District. The CofO ordinance would be monitored to assess if it was needed after three years. He said he believed that when Mayor and Council adopted the CofO ordinance, it was sort of a boost to local businesses, and as the economy rebounded, there might not be a need for it. He added that the development time-line approvals were uncontroversial.

Council Member Kozachik commented that he did not see the point of the substitute motion, as the opportunity to make changes existed within the language of the ordinances.

Mayor Walkup asked if there were further comments.

Vice Mayor Uhlich asked if, under the IID, any development rights were guaranteed and what levels of approval was needed.

Mr. Duarte said the approvals were garnered at the staff level; they did not need to go to the Planning Commission or the Mayor and Council.

Council Member Cunningham asked if the ordinance was adopted for the IID, could WUNA still be removed afterward.

Mr. Rankin replied that the Council still had the legislative authority to subsequently change boundaries of the overlay, but that was a separate process.

Council Member Cunningham asked if the substitute motion gave them a de facto deadline.

Mr. Rankin replied the substitute motion had the effect of having the extension of the IID, as a whole, expire sooner.

Mayor Walkup called for a vote on the substitute motion.

The substitute motion to extend the sunset dates of the ordinance for three years, with the exception of the Infill Incentive District, which would be extended until July 1, 2012, failed by a roll call vote of 3 to 4 (Council Members Scott, Fimbres, Kozachik and Mayor Walkup dissenting).

Mayor Walkup requested to return to the original motion.

Council Member Kozachik asked when the Clarion report was due, and if it basically streamlined the *LUC*, without fundamentally changing it.

Mr. Duarte replied that was correct, but portions of the proposed *Unified Development Code (UDC)* were more substantive in nature.

Council Member Kozachik expressed concerns over the language in the Request for Proposal (RFP) that was part of Pima Association of Governments' (PAG) Item 7 that appeared to give them project management and coordination authority over land use development of the Modern Streetcar. He wanted to make sure the City was the one to manage the *LUC* changes, not some other entity.

Mr. Rankin assured that Mayor and Council could not cede their legislative, zoning, and land use changes authority through a Request for Proposal of that type.

Council Member Romero asked staff if the IID revisions would be discussed and taken care of through the Modern Streetcar planning process.

Mr. Duarte replied yes, as part of the land use plan for the Modern Streetcar, which was being funded primarily through PAG, would be managed by P&DSD.

Council Member Romero asked when the process would begin.

Mr. Duarte said it would begin in March 2012.

Council Member Romero also clarified that the Mayor and Council had the discretion to go back and make changes if needed, even if they stretched the sunset to three years.

Vice Mayor Uhlich commented that she liked the spirit of the substitute motion, but she believed P&DSD and the City Manager understood that there should be better steps taken so that projects approved under the IID did not have negative impacts.

Mayor Walkup called for a vote on the original motion.

Ordinance 10943 was declared passed and adopted by a roll call vote of 7 to 0.

9. PUBLIC HEARING: BINGO LICENSE APPLICATION - UFMCC WATER OF LIFE METROPOLITAN COMMUNITY CHURCH, 3269 NORTH MOUNTAIN AVENUE, CITY NUMBER 205

Mayor Walkup announced City Manager's communication number 450, dated November 22, 2011, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for a bingo license at UFMCC Water of Life Metropolitan Community Church located at 3269 North Mountain Avenue. He asked if the applicant was present and if they had comments to make before beginning the public hearing.

Virginia McCabe, Applicant, said the UFMCC Water of Life Metropolitan Community Church applied for the Bingo license in an effort to raise funds to help their small church meet payroll and other costs.

Mayor Walkup announced that the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations. He asked if there were any speaker cards or if anyone wanted to speak.

There were no speakers.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

It was moved by Vice Mayor Uhlich, duly seconded, and carried by a voice vote of 7 to 0, to forward the Bingo License application to the Arizona Department of Revenue for approval.

10. PUBLIC HEARING: ZONING (C9-06-14) PARK PLACE MALL - WILMOT ROAD, C-1 TO C-2, REACTIVATION, TIME EXTENSION AND ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 454, dated November 22, 2011, was received into and made part of the record. He also announced this was the time and place legally advertised for a public hearing on a request for a reactivation and a five-year time extension for property located at the north side of Park Place Drive, west of Wilmot Road. He said staff wanted to make a brief presentation before beginning the public hearing.

Ernie Duarte, Planning and Development Services Department Director, stated that there was no presentation to make.

Mayor Walkup announced the public hearing was scheduled to last for no more than one hour and speakers were limited to five-minute presentations.

There were no speakers.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to close the public hearing.

Mayor Walkup asked the City Clerk to read Ordinance 10944 by number and title only.

Ordinance No. 10944 relating to Zoning: amending Ordinance 10513 expiration date for amending Zoning district boundaries in the area located on the north side of Park Place Drive, approximately 750 feet west of Wilmot Road, at Park Place Mall in case C9-06-14, Park Place Mall – Wilmot Road, C-1 to C-2, and setting an effective date.

It was moved by Council Member Kochachik, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10944.

11. ZONING: (C9-11-09) POTTERY AND WINE – GRANT ROAD, R-2 AND C-1 TO C-2 CITY MANAGER'S REPORT

Mayor Walkup announced City Manager's communication number 448, dated November 22, 2011, was received into and part part of the record. He also announced this was a request to rezone property located on the south side of Grant Road, west of Alvernon Way. He said the Zoning Examiner and staff recommend authorization of the rezoning subject to certain conditions.

Mayor Walkup asked if the applicant was present and agreeable to the proposed requirements.

An unidentified member of the audience responded they were in agreement with the proposed requirements.

It was moved by Council Member Kozachik, duly seconded, and passed by a roll vote of 7 to 0, to authorize the request for rezoning as recommended by the Zoning Examiner.

12. ZONING: (C9-11-10) CIRCLE K – VALENCIA ROAD, C-1 TO C-2, CITY MANAGER'S REPORT, DIRECT ORDINANCE ADOPTION

Mayor Walkup announced City Manager's communication number 455, dated November 22, 2011, was received into and part part of the record. He also announced this was a request to rezone property located on the southeast corner of Valencia Road and Midvale Park Road. He said the Zoning Examiner and staff recommend approval subject to certain conditions.

Mayor Walkup asked if the applicant was present and agreeable to the proposed requirements.

David Cisiewski, agent for the applicant, replied they were in agreement with the proposed requirements.

Mayor Walkup asked the City Clerk to read Ordinance 10945 by number and title only.

Ordinance No. 10945 relating to Zoning: amending zoning district boundaries in the area at the southeast corner of Valencia Road and Midvale Park Road in case C9-11-10 Circle K - Valencia Road, C-1 to C-2; and setting an effective date.

It was moved by Council Member Romero, duly seconded, and passed by a roll call vote of 7 to 0, to pass and adopt Ordinance 10945.

Richard Miranda, City Manager, acknowledged Peter Gavin, Zoning Examiner, and thanked him for thirty-two years of service to the City of Tucson.

13. FINANCIAL PARTICIPATION AGREEMENT: WITH TUCSON REGIONAL ECONOMIC OPPORTUNITIES, INC. (TREO)

Roger W. Randolph, City Clerk, announced this item was being continued to the December 13, 2011, Mayor and Council meeting at the request of staff.

14. APPOINTMENTS TO BOARDS, COMMITTEES AND COMMISSIONS

Mayor Walkup announced City Manager's communication number 445, dated November 22, 2011, was received into and made part of the record. He asked for a motion to approve the appointments in the report.

It was moved by Council Member Romero, duly seconded, and carried by a voice vote of 7 to 0, to approve the appointment of James E. Cook to the Metropolitan Education Commission (MEC).

Mayor Walkup asked if there were any personal appointments to be made.

There were none.

15. ADJOURNMENT: 9:31 p.m.

Mayor Walkup announced the next regularly scheduled meeting of the Mayor and Council would be held on Tuesday, December 5, 2011, at 5:30 p.m., at the Tucson Convention Center, 260 South Church Avenue, Tucson, Arizona.

MAYOR

ATTEST:

CITY CLERK

CERTIFICATE OF AUTHENTICITY

I, the undersigned, have read the foregoing transcript of the meeting of the Mayor and Council of the City of Tucson, Arizona, held on the 22nd day of November 2011, and do hereby certify that it is an accurate transcription.

DEPUTY CITY CLERK

RWR:rm:yl